

AMENDED IN SENATE MARCH 16, 2006

**SENATE BILL**

**No. 1277**

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**Introduced by Senator Alquist**

February 10, 2006

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An act to amend Section 1371.4 of, ~~and to add Section 1317.19 to,~~  
the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as amended, Alquist. Emergency ~~care and~~ services *and care*: reimbursement.

Existing law, the Knox-Keene Health Care Service Plan act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Under the act, a health care service plan is required to comply with specified procedures regarding authorization requests made by providers and is required to reimburse providers for emergency services and care provided to its enrollees, as specified. ~~Existing law also imposes specified obligations on a hospital, as defined, with regard to the provision of emergency services and care to patients and makes a knowing and intentional violation of those requirements by administrative or medical personnel a crime.~~

This bill would ~~deem~~ *provide that* a request for authorization for emergency services and care, poststabilization care, as defined, or transfer of the enrollee *is deemed* approved by the health care service plan if it ~~failed~~ *fails* to authorize those services within 30 minutes of the provider's initial contact to request authorization. The bill would require the plan to reimburse the provider for the services ~~and would require the hospital, as defined, to reimburse the physician and surgeon for his or her services if they are not timely reimbursed by the~~

~~plan. The bill would authorize the hospital to recover those payments from the plan within a specified time frame.~~

Because the bill would specify additional requirements for the operation of a health care service plan ~~and for a hospital with regard to emergency care and services~~, the *willful* violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 1317.19 is added to the Health and~~  
2     ~~Safety Code, to read:~~

3     ~~1317.19. A hospital shall reimburse a physician and surgeon~~  
4     ~~for services he or she provided pursuant to subdivision (k) of~~  
5     ~~Section 1371.4, if the health care service plan fails to comply~~  
6     ~~with the provisions of Section 1371.35 in reimbursing the~~  
7     ~~physician and surgeon for those services. The hospital may bring~~  
8     ~~an action against the health care service plan to recover the~~  
9     ~~amount it paid a physician and surgeon under this section.~~

10    ~~SEC. 2.~~

11    ~~SECTION 1.~~ Section 1371.4 of the Health and Safety Code is  
12    ~~amended to read:~~

13    ~~1371.4. (a) A health care service plan, or its contracting~~  
14    ~~medical providers, shall provide 24-hour access for enrollees and~~  
15    ~~providers to obtain timely authorization for medically necessary~~  
16    ~~care for circumstances where the enrollee has received~~  
17    ~~emergency services and care and is stabilized, but the treating~~  
18    ~~provider believes that the enrollee may not be discharged safely.~~  
19    ~~A physician and surgeon shall be available for consultation and~~  
20    ~~for resolving disputed requests for authorizations. A health care~~  
21    ~~service plan that does not require prior authorization as a~~  
22    ~~prerequisite for payment for necessary medical care following~~

1 stabilization of an emergency medical condition or active labor  
2 need not satisfy the requirements of this subdivision.

3 (b) A health care service plan shall reimburse providers for  
4 emergency services and care provided to its enrollees, until the  
5 care results in stabilization of the enrollee, except as provided in  
6 subdivision (c). As long as federal or state law requires that  
7 emergency services and care be provided without first  
8 questioning the patient's ability to pay, a health care service plan  
9 shall not require a provider to obtain authorization prior to the  
10 provision of emergency services and care necessary to stabilize  
11 the enrollee's emergency medical condition.

12 (c) Payment for emergency services and care may be denied  
13 only if the health care service plan reasonably determines that the  
14 emergency services and care were never performed; provided  
15 that a health care service plan may deny reimbursement to a  
16 provider for a medical screening examination in cases when the  
17 plan enrollee did not require emergency services and care and the  
18 enrollee reasonably should have known that an emergency did  
19 not exist. A health care service plan may require prior  
20 authorization as a prerequisite for payment for necessary medical  
21 care following stabilization of an emergency medical condition.

22 (d) If there is a disagreement between the health care service  
23 plan and the provider regarding the need for necessary medical  
24 care, following stabilization of the enrollee, the plan shall assume  
25 responsibility for the care of the patient either by having medical  
26 personnel contracting with the plan personally take over the care  
27 of the patient within a reasonable amount of time after the  
28 disagreement, or by having another general acute care hospital  
29 under contract with the plan agree to accept the transfer of the  
30 patient as provided in Section 1317.2, Section 1317.2a, or other  
31 pertinent statute. However, this requirement shall not apply to  
32 necessary medical care provided in hospitals outside the service  
33 area of the health care service plan. If the health care service plan  
34 fails to satisfy the requirements of this subdivision, further  
35 necessary care shall be deemed to have been authorized by the  
36 plan. Payment for this care may not be denied.

37 (e) A health care service plan may delegate the responsibilities  
38 enumerated in this section to the plan's contracting medical  
39 providers.

1 (f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with  
2 respect to a nonprofit health care service plan that has 3,500,000  
3 enrollees and maintains a prior authorization system that includes  
4 the availability by telephone within 30 minutes of a practicing  
5 emergency department physician.

6 (g) The Department of Managed Health Care shall adopt by  
7 July 1, 1995, on an emergency basis, regulations governing  
8 instances when an enrollee requires medical care following  
9 stabilization of an emergency medical condition, including  
10 appropriate timeframes for a health care service plan to respond  
11 to requests for treatment authorization.

12 (h) The Department of Managed Health Care shall adopt, by  
13 July 1, 1999, on an emergency basis, regulations governing  
14 instances when an enrollee in the opinion of the treating provider  
15 requires necessary medical care following stabilization of an  
16 emergency medical condition, including appropriate timeframes  
17 for a health care service plan to respond to a request for treatment  
18 authorization from a treating provider who has a contract with a  
19 plan.

20 (i) The definitions set forth in Section 1317.1 shall control the  
21 construction of this section.

22 (j) (1) A health care service plan that meets the criteria set  
23 forth in paragraphs (3) and (4) of subdivision (a) of Section  
24 1262.8 and that is contacted by a hospital pursuant to Section  
25 1262.8 shall, within 30 minutes of the time the hospital makes  
26 the initial telephone call requesting information, do all of the  
27 following:

28 (A) Discuss the enrollee's medical record with the  
29 noncontracting physician and surgeon or an appropriate  
30 representative of the hospital.

31 (B) Transmit any appropriate portion of the enrollee's medical  
32 record requested by the appropriate hospital representative or the  
33 noncontracting physician and surgeon to the hospital by facsimile  
34 transmission or electronic mail, whichever method is requested  
35 by the appropriate hospital representative or the noncontracting  
36 physician and surgeon. The health care service plan shall  
37 transmit the record in a manner that complies with all legal  
38 requirements to protect the enrollee's privacy.

1 (C) Either authorize poststabilization care or inform the  
2 hospital that it will arrange for the prompt transfer of the enrollee  
3 to another hospital.

4 (2) A health care service plan that meets the criteria set forth  
5 in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and  
6 that is contacted by a hospital pursuant to Section 1262.8 shall  
7 reimburse the hospital for poststabilization care rendered to the  
8 enrollee if any of the following occur:

9 (A) The health care service plan authorizes the hospital to  
10 provide poststabilization care.

11 (B) The health care service plan does not respond to the  
12 hospital's initial contact or does not make a decision regarding  
13 whether to authorize poststabilization care or to promptly transfer  
14 the enrollee within the timeframe set forth in paragraph (1).

15 (C) There is an unreasonable delay in the transfer of the  
16 enrollee, and the noncontracting physician and surgeon  
17 determines that the enrollee requires poststabilization care.

18 (3) Paragraphs (1) and (2) do not apply to a physician and  
19 surgeon who provides medical services at the hospital.

20 (4) A health care service plan that meets the criteria set forth  
21 in paragraphs (3) and (4) of subdivision (a) of Section 1262.8  
22 shall not require a hospital representative or a noncontracting  
23 physician and surgeon to make more than one telephone call  
24 pursuant to Section 1262.8 to the number provided in advance by  
25 the health care service plan. The representative of the hospital  
26 that makes the telephone call may be, but is not required to be, a  
27 physician and surgeon.

28 (5) An enrollee who is billed by a hospital in violation of  
29 Section 1262.8 may report receipt of the bill to the health care  
30 service plan and the department. The department shall forward  
31 that report to the State Department of Health Services.

32 (6) For purposes of this section, "poststabilization care" means  
33 medically necessary care following stabilization of an emergency  
34 medical condition.

35 (k) Notwithstanding any other provision of law, if a health  
36 care service plan does not authorize emergency services and care,  
37 poststabilization care, or transfer of the enrollee within 30  
38 minutes from the time the provider first contacted the plan to  
39 request authorization for any of those services, the request for  
40 authorization to provide that service shall be deemed approved.

1 The plan shall reimburse the provider within the timeframe  
2 specified in Section 1371.35 for the services provided to the  
3 enrollee.

4 ~~SEC. 3.~~

5 *SEC. 2.* No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the  
10 penalty for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition of a  
12 crime within the meaning of Section 6 of Article XIII B of the  
13 California Constitution.